

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/822,079

Applicant(s)

BERGER, ALLEN

Examiner

Blair Johnson

Art Unit

3634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 23 May 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

2. IN SECTION III Status of All Claims: the Appeal Brief does not state which claims are being appealed. A copy of the claims does not need to be provided in this section just the status whether it's rejected, withdrawn, cancelled ECT...

3. (4) IN SECTION V Summary of the Claimed Subject Matter: The brief does not identify independent claim(s) (1) and give a concise explanation of the subject matter defined in the independent claim(s) by referring to the specification by page and line number, or paragraph number and to the drawing, if any, by reference characters to identify where the support for the independent claim(s) are located. Concerning Section 3 Amendment After Final: The Amendment filed 05/02/08 has been entered by the Examiner, See Examiner's Advisory Action dtd 05/14/08(PAIR). The S-Signature of the attorney of record is improper and the appeal brief is being treated as unsigned. See [http://ptoweb/patents/tsr/quickref\\_for\\_signature.html](http://ptoweb/patents/tsr/quickref_for_signature.html).

  
EVERETT R. WILLIAMS

PATENT APPEAL CENTER SPECIALIST